

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 01-1701

Sandra L. Marxkors,

Appellant,

v.

GTE Wireless, Inc.,

Appellee.

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Appeal from the United States
District Court for the
Eastern District of Missouri.

[UNPUBLISHED]

Submitted: September 10, 2001

Filed: October 4, 2001

Before MCMILLIAN, BEAM, and HANSEN, Circuit Judges.

PER CURIAM.

Sandra Marxkors appeals the district court's¹ dismissal of her action under the Age Discrimination in Employment Act (ADEA), 29 U.S.C. §§ 621 and 623(a)(1) (1994), against her former employer, GTE Wireless, Inc. (GTE). Marxkors filed this action after she lost her position when GTE eliminated and reorganized part of its

¹ The Honorable Carol E. Jackson, United States District Judge for Eastern District of Missouri.

workforce in its St. Louis, Missouri, office. Having conducted de novo review, Britton v. City of Poplar Bluff, Mo., 244 F.3d 994, 996 (8th Cir. 2001), we affirm.

Marxkors presented no direct evidence of age discrimination. Therefore, the district court employed the burden-shifting analysis of McDonnell Douglas Corp. v. Green, 411 U.S. 792 (1973), and St. Mary's Honor Ctr. v. Hicks, 509 U.S. 502 (1993). The district court assumed for the purposes of summary judgment that Marxkors had established her prima facie case, but it concluded that GTE had articulated a legitimate, nondiscriminatory reason for the adverse employment action. See McDonnell Douglas, 411 U.S. at 802. Marxkors did not dispute that her attendance and punctuality were poor, that she had made personal calls in violation of company policy, that her performance was unsatisfactory, or that the two younger employees retained after the reorganization each had performance evaluations superior to hers. Marxkors failed to present any evidence that these reasons for not retaining her after the reorganization were pretextual. See id. at 804; Ryther v. KARE 11, 108 F.3d 832, 838 (8th Cir.) (en banc) ("Obviously, in all age discrimination cases, the plaintiff must produce sufficient evidence of the elements of the prima facie case and where necessary, adduce sufficient proof of pretext to meet the traditional tests of summary judgment. . . ."), cert. denied, 521 U.S. 1119 (1997). Accordingly, we affirm the judgment of the district court. See 8th Cir. R. 47B.

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